IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WA.No. 1932 of 2007

AGAINST THE JUDGEMENT IN OP.NO.25254/2002 Dated 09/02/2007

APPELLANT: WRIT PETITIONER

M/S. PULIKKAL PHARMA DISTRIBUTORS,
MANIKKIRI - M.G.CROSS ROAD, PALLIMUKKU,
KOCHI-16, REPRESENTED BY ITS MANAGING PARTNER,
DR. LOUIS V.PULICKAL.

BY ADV. SMT.S.K.DEVI

RESPONDENTS: RESPONDENTS
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1. THE SALES TAX INSPECTOR,
SALES TAX CHECK POST, WALAYAR, PALAKKAD.

2. STATE OF KERALA, REPRESENTED BY
ITS FINANCE SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER SRI.MUHAMMED RAFIQ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1932 OF 2007

Dated this the 7th August, 2007

JUDGMENT

H.L.DATTU, C. J.

This appeal arises out of an order passed by the learned single Judge in O.P.No.25254 of 2002, dated 9th February, 2007. The learned single Judge has disposed of the Original Petition. While doing so, the learned single Judge has, in fact, protected all the rights of the appellant/ petitioner.

2. Primarily aggrieved by the notice issued by the respondent Sales Tax Authority, in exercise of its powers under Rule 4(2A) of the Kerala Tax on Entry of Goods into Local Areas Rules, 1994, dated 20th July, 2002, the appellant was before this Court in O.P.No.25254 of 2002.

3. In our view, the Original Petition so filed by the petitioner itself was wholly premature. If for any reason, the appellant/petitioner was of the opinion that the respondent Authority could not have issued any notice to the petitioner asking the petitioner to pay entry tax under the provisions of the Entry Tax Act, the petitioner ought to have filed appropriate objection before the respondent Authority and ought to have requested the Authority to pass an appropriate order. Without even doing so, the petitioner has rushed to this Court by filing the Original Petition.

4. In view of the above, in our opinion, the reliefs sought for by the appellant in this appeal cannot be granted. However, liberty is reserved to

the appellant to file appropriate objection within a month's time from today to the notice issued by the respondent Authority, dated 20th July, 2002. If such an objection is filed within the time granted by this Court, the respondent Authority will consider the same in accordance with law and pass appropriate orders. Liberty is also reserved to the appellant to take up all such contentions which are available and including the contentions raised in the Original Petition, in the objection that may be filed before the respondent Authority.

5. With the above observations and directions, the Writ Appeal is disposed of.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.NO. 1932 OF 2007

JUDGMENT

7th August, 2007